IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 14120 of 2004

Between:

Sri M.M.Anand Sagar, s/o M.S.Prasada Rao,
Katrenikona Village & Mandal, East Godavari District.

.... PETITIONER

AND

1 The Government of Andhra Pradesh rep., by its Principal Secretary

to Government, Panchayat Raj and Rural (PTS.II) Development,

Secretariat, Hyderabad.
2 The District Collector, East Godavari District,
Kakinada.
3 The District Panchayat Officer, East Godavari District, Kakinada.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction more particularly one in the nature of writ of MANDAMUS, declaring the action of the 1st respondent in dismissing the revision petition filed by the petitioner vide G.O.Rt.No.1102, dt.30-07-2004 and consequential proceedings

of the 2nd respondent vide Roc.No.5009/2003-A1, dt.30-07-2004, as illegal, arbitrary and against all cannons of fair play, equity and principles of natural justice besides violative of Constitutional provisions and apart from in violation of provisions under Section 249 of A.P.Panchayat Raj Act, 1994, and consequently, set aside the same.

Counsel for the Petitioner: MR.V.RAJA MANOHAR

Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the admission stage made the following:

ORDER:

Petitioner who was elected as Sarpanch of Katrenikona Village & Mandal, East Godavari District was kept under suspension by the Government in G.O.Rt.No.1102, vide proceedings dated 30-07-2004. Questioning the legality and validity of the same, the present Writ Petition has been filed.

2. Petitioner was served with a show cause notice dated 18-01-2004 on the petition made by some villagers and as per the directions of the Collector, East Godavari District – 2nd respondent, the District Panchayat Officer conducted an enquiry after prior intimation to the petitioner. When the petitioner was asked to show the Gram Panchayat records, he adamantly refused the same without giving valid reasons, which clearly shows his disobedience on the orders of the higher authorities and serious lapse on the part of the petitioner in his not submitting the records before the District Panchayat Officer; in view of the same, why action should not be taken against him for violation to produce the records before the District Panchayat Officer at the time of enquiry.

3. Petitioner submitted his explanation to the said show cause notice. Having not satisfied with the said explanation offered, second respondent, by proceedings dated 18-03-2004 placed

the petitioner under suspension for misuse of powers and misappropriation of the Gram Panchayat funds. Aggrieved by the same, petitioner filed W.P.No.6144 of 2004, which was disposed of by this Court since the petitioner has a right of appeal to the Government. Accordingly, petitioner filed an appeal before the Government. Government initially granted stay of all proceedings of the Collector and called for a report from the D.P.O. On submission of the report by the D.P.O., in which it is stated that the petitioner has committed financial irregularities to a tune of Rs. 13,60,559-00/- and failed to provide the connected records, thereby causing monetary loss to the Gram Panchayat and continuing the petitioner is detrimental to the interests of the Gram Panchayat. In view of the same, he was suspended from the office of the Sarpanch. Government, after hearing the parties and after taking note of the report submitted by the D.P.O., dismissed the appeal vacating the stay with a direction to the District Collector to take necessary action for removal of the Sarpanch and recovery of the entire amount misappropriated under the A.P. Panchayat Raj Act, 1994 (for short 'the Act'). Consequently, second respondent by proceedings in R.O.C.No.5009/2003-A1 dated 30-07-2004 placed the petitioner under suspension.

4. Learned senior counsel appearing for the petitioner submits that in the impugned show cause notice, it is nowhere stated that the petitioner misappropriated the funds of the Gram Panchayat except stating his failure to produce the records before the D.P.O and why action should not be taken against the petitioner. Even in the suspension order dated 18-03-2004, against which the petitioner preferred an appeal, there is no mention about the misappropriation of amounts as alleged. In view of the same, the order passed in G.O.Rt.No.1102 dated 30-07-2004 is in violation of the principles of natural justice.

5. On the other hand, learned Government Pleader submits

that in the show cause notice issued to the petitioner, at page 21, though it is recorded that the irregularities mentioned by the Sarpanch is to a tune of Rs. 13,60,559-00/-, the said portion was omitted and the same was despatched on 23-03-2004. In view of the same, the impugned order passed in G.O.Rt.No.1102 dated 30-07-2004 and the consequential order passed by the first respondent is set aside. The Writ Petition is accordingly allowed. However, this order will not preclude the first respondent from taking appropriate action on the alleged financial irregularities by issuing a show cause notice and taking action in accordance with law. No costs.

_____

A. **GOPAL REDDY, J**

September 9, 2004

MRR

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To:

1 The Principal Secretary to Government, Government of

Andhra Pradesh, Panchayat Raj and Rural (PTS.II)

Development, Secretariat, Hyderabad.
2 The District Collector, East Godavari District,
Kakinada.
3 The District Panchayat Officer, East Godavari

District, Kakinada.

4 Two C.C.s to the G.P for Panchayat Raj & Rural

Development, High Court Buildings, Hyderabad (O.U.T).

5 Two C.D. Copies.